II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 24 April 1975

authorizing the application of special tariff measures to the carriage by rail of iron ore from Lorraine and Western France to Belgium, Luxembourg and the Saar

(Only the German and the French texts are authentic)

(75/356/ECSC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Articles 2 to 5 and 70 thereof;

Whereas by Decision No 13/67 [1] of 7 June 1967 the High Authority of the ECSC authorized the application of reduced rates to the carriage by rail of Lorraine iron ore to the Saar; whereas by Decision No 74/302/ECSC [2] of 22 May 1974 the Commission extended such authorization until 31 December 1974 by approving the application until that date of Franco-German Tariff No 3101 (now designated Tariff No 5001) — Part III — Price Scale No 1 and of the tariff subsidy (Frachthilfe) granted pursuant to the Directives from the Bundesminister für Wirtschaft;

Whereas by Decisions No 68/349/ECSC [3] of 31 July 1968 and No 69/268/ECSC [4] of 28 July 1969 the Commission authorized the application of special tariff measures to the carriage by rail of Lorraine iron ore to Belgium and Luxembourg; whereas by Decision No 73/48/ECSC [5] of 4 January 1973 it extended such authorization until 31 December 1974 by approving the application until that date of Franco-Belgian Tariff No 3232 (now designated Tariff No 5040) — Part III and of Franco-Luxembourg Tariff No 3530 (now designated Tariff No 5024) — Part III A;

Whereas by Decision No 73/49/ECSC [6] of 4 January 1973 the Commission authorized until 31 December 1974 the application of three special tariffs to the carriage by rail of iron ore from Western France to Belgium (Franco-Belgian Tariff No 3232-01 — now designated Tariff No 5040-01), to Luxembourg (Franco-Luxembourg Tariff No 3530-05 — now designated Tariff No 5024-05) and to the Saar (Franco-German Tariff No 3101 — now designated Tariff No 5001 — Part III — Price Scale No 2);

Whereas the Commission, with the agreement of the Member States concerned, considered all these measures as an integral part of the tariff structure as a whole and therefore limited its authorization thereof to a period expiring on 31 December 1974;

Whereas, by letters dated 20 December 1974, 23 December 1974 and 14 March 1975 from the Offices of the Permanent Representatives of France, Germany and Luxembourg respectively to the European Communities, the French, German and Luxembourg Governments addressed a request to the Commission to extend until 31 December 1976 the authorization for all the tariffs in question with the tariff reductions applied previously, it being understood however that the reduction of FF 1·01 granted over the French section as provided for in Franco-German Tariff No 5001 would in future be subsidized in full by the SNCF;

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[1] OJ No 116, 17. 6. 1967, p. 2249/67.
[2] OJ No L 171, 27. 6. 1974, p. 2.
[3] OJ No L 230, 19. 9. 1968, p. 8.
[4] OJ No L 220, 1. 9. 1969, p. 5.
[5] OJ No L 83, 30. 3. 1973, p. 36.
[6] OJ No L 83, 30. 3. 1973, p. 38.

Whereas in their request and in particular during a consultation meeting with the Commission, the Governments concerned have pointed out that :

1. The circumstances which gave rise to previous authorizations granted by the Commission still prevail today, that since the first authorizations were granted, the situation of French iron ore compared with imports of rich ore from non-Member States has not changed fundamentally, that its position remains unfavourable and that the disadvantage of the low iron content of French, and, particularly, Lorraine iron ore, which is reflected in a high consumption of coke in blast furnaces, has become more acute due to the considerable increases in the price of coke ;

2. The continued application of the special tariff measures concerned should enable the French iron mines to pursue their efforts towards rationalization and modernization, which have been reflected in increased productivity (the output of mines in the East, for example, increased by 38 % between 1968 and 1973) and reduce the risk to the railways of losing traffic of some 10 million metric tons which is still profitable ; the French and Luxembourg Governments support their request for an extention of authorization of the said measures by stressing their importance to their railways ;

3. The continued operation of French mines is of importance to the Community in that this ensures survival of sources of supply of raw materials and to a certain extent insures against the risks associated with imports from non-member producer countries at a time when the latter are uniting in an attempt to strengthen their position *vis-a-vis* consumer countries ;

Whereas the circumstances invoked by the Governments concerned as set out in 1 and 2 above seem incontestable in so far as they are intended to justify aid for the French iron mines ; whereas in spite of efforts towards rationalization and modernization the latter have still not entirely overcome their difficulties, in particular because of new disadvantages resulting from the increased cost of coke, which has a more pronounced effect on the use of French ore due to the greater consumption of coke that this entails ;

Whereas under the present circumstances governing the supply of raw materials to the Community the granting for a further period of tariff reductions in favour of the iron producers can help them in their restructuring and modernization efforts and thus enable them to make an effective contribution to supplying the Community iron and steel industry ;

Whereas under these conditions and even if, because of present circumstances, in particular the state of the world market in iron ore at this time, there seems to be little risk in the short-term of a reduction in the present volume of trade in French iron ore, continued application of the special tariff measures in question appears justified ; whereas the interest of the SNCF and the CFL as invoked by the French and Luxembourg Governments have not been established, because both Governments have failed to provide the proof requested by the Commission that the application of these tariff measures will actually improve the operating results of the two railways ; whereas the interest of the SNCF and the CFL are not however decisive since the aim of the aid is not disputed ; whereas these measures are compatible with the principles of the Treaty establishing the ECSC and whereas their application is not liable to have a disturbing effect upon the common market ;

Whereas the period for which continued application has been requested by the Governments concerned is limited to two years ; whereas because of the shortness of this period and having regard to the terms on which the tariff reductions authorized are applied, it does not appear necessary to provide for such reductions to be gradually scaled down over this period, even though the tariff aid thus granted to certain French producers will have accordingly remained unchanged for a total period of almost 10 years ;

Whereas the Commission must reserve the right to review its decision whenever the circumstances giving rise to it vary or no longer apply ;

HAS ADOPTED THIS DECISION :

Article 1

Authorization is hereby given, until 31 December 1976, for the application to the carriage by rail of Lorraine iron ore and iron ore from Western France to Belgium, Luxembourg and the Saar of the following special tariff measures :

— Franco-German Tariff No 5001 — Part III and the tariff subsidy (Frachthilfe) granted pursuant to the Directives from the Bundesminister für Wirtschaft,

— Franco-Belgian Tariffs No 5040 — Part III and No 5040-01,

— Franco-Luxembourg Tariffs No 5024 — Part III A and No 5024-05

with the tariff reductions in force on 31 December 1974.

Article 2

This Decision may be amended or repealed if the Commission finds that it is no longer warranted.

Article 3

This Decision is addressed to the Federal Republic of Germany, the French Republic and the Grand Duchy of Luxembourg.

Done at Brussels, 24 April 1975.

For the Commission

The President

François-Xavier ORTOLI